

United States District Court  
Southern District of New York

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Terezina Ujkaj

-v-

American Building, et al  
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Document # 52

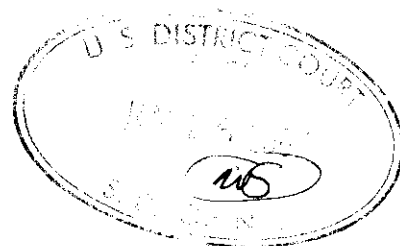
U.S.C.A. # 05-1361-cv

U.S.D.C. # 02cv7065

U.S.D.J.: HB

Date: 1/25/2007

**Notice to the Docket Clerk**



☐ Original Record

☒ Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A. for the  
Second Circuit on the 25<sup>th</sup> Day of January, 2007.

Date: 1/25/2007

USCA NO. 05-1361-cv

-V-

**JUDGE: HB**

**1<sup>st</sup> Supplemental Index To The Record On Appeal**

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DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS	DESCRIPTION	DOC#
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### 1. Supplemental Clerk's Certificate

2. \_\_\_\_\_

3. **\*\* SEE ATTACHED DOCKET SHEET**

4. \_\_\_\_\_

5. \*\*\* ONLY CIRCLED DOCUMENTS ARE SUPPLEMENTED

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APPEAL, CLOSED

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:02-cv-07065-HB**  
**Internal Use Only**

Ujkaj v. American Building, et al  
Assigned to: Judge Harold Baer  
Demand: \$0  
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 09/06/2002  
Date Terminated: 12/15/2004  
Jury Demand: None  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

Date Filed	#	Docket Text
09/06/2002	<u>1</u>	DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS by Terezina Ujkaj . (gmo) (Entered: 10/03/2002)
09/06/2002	<u>2</u>	COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). (gmo) (Entered: 10/03/2002)
09/06/2002		Magistrate Judge Henry B. Pitman is so designated. (gmo) (Entered: 10/03/2002)
09/06/2002	<u>3</u>	60 DAYS ORDER. I hereby grant petitioner's request to proceed in forma pauperis. The plaintiff is hereby directed to file an amended complaint detailing his claim of employment discrimination. Specifically, plaintiff must provide a short and plain statement of relevant facts supporting each claim against each defendant named in the amended complaint, including the dates of all relevant events, the names of relevant persons, and a description of what actually occurred relating to each claim, it must be submitted to this Court's Pro Se Office within 60 days of the date of this order,... No summons shall be issued at this time and all further proceedings shall be stayed for sixty days or until plaintiff has complied with this order. If plaintiff fails... the complaint will be dismissed. Should plaintiff decide to file an amended complaint, it must be submitted to this Court's Pro Se Office within 60 days of the date of this order, be captioned as an "Amended Complaint", and bear the same docket number as this order. No summons shall be issued at this time and all further proceedings shall be stayed for sixty days or until plaintiff has complied with this order. If plaintiff fails to comply within the time allowed, the complaint will be dismissed. Once submitted, the amended complaint shall be reviewed for compliance with this order and substantive sufficiency and then, if the case shall be reassigned to a district judge in accordance with the procedures of the Clerk's Office. I certify pursuant to 28 U.S.C. 1915(a)(3) that any appeal from this order would not be taken in good faith. ( signed by Chief Judge Michael B. Mukasey ) (gmo) (Entered: 10/03/2002)
11/04/2002	<u>4</u>	AMENDED COMPLAINT by Terezina Ujkaj: amending [2-1] complaint; Jury Trial Demanded. (ac) (Entered: 11/05/2002)
11/04/2002	<u>5</u>	APPLICATION by Terezina Ujkaj for the Court to request counsel (cd) (Entered: 11/13/2002)
12/23/2002	<u>6</u>	ORDER, I grant plntf leave to file a second amended complaint detailing her claim of employment discrimination purs to FRCP 8, within 30 days of the instant order, as further set forth in this document ( signed by Chief Judge Michael B. Mukasey ); (cd) Modified on 12/26/2002 (Entered: 12/26/2002)
01/22/2003	<u>7</u>	APPLICATION by Terezina Ujkaj; for the Court to request counsel . (ae) (Entered: 01/23/2003)
01/22/2003	<u>8</u>	SECOND AMENDED COMPLAINT by Terezina Ujkaj: amending [4-1] amended complaint; Jury Trial Demanded. (ae) (Entered: 01/23/2003)
03/19/2003	<u>9</u>	Order of partial dismissal, as far as plntf is alleging that she was discriminated against in her employment in violation of Title VII because it fails to state a claim on which relief may be granted. In light of plntf's remaining allegations, I direct the Clerk of Court to reassign this action as it pertains to claims related to plntf's union to a district judge in accordance with the procedures of the Clerk's office. A copy of this order shall be served with the summons and the Second Amended Complaint. Nothing herein shall preclude the deft from making any such motion to dismiss the complaint as it may be advised to make. I certify purs to 28 USC 1915(a)(3) that any appeal from this order would not be taken in good faith ( signed by Chief Judge Michael B. Mukasey ); copy forwarded to the Case Assignments Clerk (cd) (Entered: 03/21/2003)
03/21/2003	<u>10</u>	Notice of Case Reassignment to Judge Harold Baer Jr. . Copy of notice and judge's rules mailed to Attorney(s) of record: Terezina Ujkaj . (jol) (Entered: 03/24/2003)
04/04/2003		SUMMONS(ES) issued for American Building on 4/4/03. (ja) (Entered: 04/10/2003)
04/17/2003		AMENDED SUMMONS(ES) issued for American Building (ae) Modified on 04/22/2003 (Entered: 04/22/2003)
04/17/2003	<u>11</u>	THIRD AMENDED COMPLAINT by Terezina Ujkaj (Answer due 4/28/03 for American Building ) amending [2-1] complaint against Lokal 32B-32J AFL-CI. Summons issued. (ae) (Entered: 04/22/2003)

04/24/2003	12	ACKNOWLEDGEMENT OF SERVICE of summons and complaint as to American Building by mail on 4/16/03. Answer due on 5/6/03 for American Building. (kw) (Entered: 04/25/2003)
04/29/2003	13	Letter filed addressed to Counsel from Anne Sherlock, Secretary to Ho. dated 4/28/03, re: pretrial conference sheduled for 5:00 p.m. on 6/3/03, in Room 2230.. (yv) (Entered: 05/02/2003)
04/29/2003		Deadline(s) updated: pretrial conference for 5:00 6/3/03 . (yv) (Entered: 05/02/2003)
05/14/2003	14	U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of summons and complaint executed as to American Building by acknowledgment of receipt by mail on 5/7/03. Answer due on 5/27/03 for American Building. (sb) (Entered: 05/16/2003)
06/03/2003	15	RULE 7.1 CERTIFICATE filed by American Building . (dle) (Entered: 06/05/2003)
06/03/2003	16	ANSWER by American Building to [8-1] amended complaint . (Attorney Harry M Weinberg from the). (dle) (Entered: 06/05/2003)
06/09/2003	17	AFFIRMATION OF SERVICE of summons and complaint as to Todi P. Godman, Associate General Counsel, SEIU local 32BJ and secretary, Office Service Contract Arbitrator by personal service on 6/6/03 . (dle) Modified on 06/11/2003 (Entered: 06/11/2003)
06/09/2003	18	ORDER; that counsel be assigned to plaintiff Terezina Ujkaj in accordance with the random selection procedures of the Pro Bono Panel by the Pro Se Office, and that the Pro Se Office post a bulletin to the Pro Bono Panel in an expedited fashion . ( signed by Judge Harold Baer Jr. ) (jco) (Entered: 06/11/2003)
06/23/2003	21	NOTICE OF MOTION (Filed on Service Date) by American Building for an order, purs. to Rules 12(b)(c), dismissing the 3rd Amended Complaint as against deft American Bldg. Maintenance Co. ; or, in the alternative for an order, purs. to FRCP 56, for summary judgment ; Return Date not indicated. (sac) (Entered: 06/30/2003)
06/25/2003	19	NOTICE OF MOTION by Lokal 32B-32J AFL-CI purs. to Rules 8(a)(2) and 12(b)(6) of the FRCP, dismissing Pltff's Complaint ; Return Date not indicated. (sac) (Entered: 06/26/2003)
06/25/2003	20	MEMORANDUM OF LAW by Lokal 32B-32J AFL-CI in support of [19-1] motion purs. to Rules 8(a)(2) and 12(b)(6) of the FRCP, dismissing Pltff's Complaint. (sac) (Entered: 06/26/2003)
06/26/2003	22	RULE 7.1 CERTIFICATE filed by American Building. (sac) (Entered: 06/30/2003)
06/26/2003	23	RULE 56.1 STATEMENT filed by American Building (sac) (Entered: 06/30/2003)
07/01/2003	24	RULE 7.1 CERTIFICATE filed by American Building. (djc) (Entered: 07/02/2003)
07/01/2003	25	Statement to Plaintiff Pro Se Purs to Local Civil Rule 56.2 Explaining How to avoid dismissal of the amended complaint by American Building. (djc) (Entered: 07/02/2003)
07/01/2003	26	RULE 56.1 STATEMENT filed by American Building (djc) (Entered: 07/02/2003)
07/01/2003	27	CERTIFICATION/AFFIDAVIT of Harry Weinberg by American Building in support of [21-1] motion for an order, purs. to Rules 12(b)(c), dismissing the 3rd Amended Complaint as against deft American Bldg. Maintenance Co., [21-2] motion for an order, purs. to FRCP 56, for summary judgment . (djc) (Entered: 07/03/2003)
07/23/2003	28	Memo-Endorsement on letter addressed to Judge Harold Baer from harry Weinberg, dated 7/22/03. counsel for dft ABM requests that their [21-1,2] motion to dismiss be deemed submitted unopposed. This motion is granted there being no opposition as is the M/D by 32BJ - annexed and with both dfts having successfully moved to dismiss, the clerk is instructed to close the case and any open motions and remove it from my docket. ( signed by Judge Harold Baer Jr. ); Document forwarded to judgment clerk. (dle) Modified on 07/25/2003 (Entered: 07/24/2003)
07/23/2003	29	Memo endorsed on (copy) motion to dismiss by Defendant Local 32BJ, AFL-CIO; Granted See memo endorsement on AM building Maintenance letter attached . ( signed by Judge Harold Baer Jr. ); (ac) (Entered: 07/24/2003)
07/28/2003	30	JUDGMENT; that for the reasons stated in the Court's Memo Endorsed Order dated 7/22/03, defendants' motions to dismiss is granted; accordingly, the case is closed and any open motions removed from the Courty's docket. (signed by J. Michael McMahon, Clerk of Court); Mailed copies and notice of right to appeal. Entered On Docket: 7/29/03. (ae) (Entered: 07/29/2003)
07/28/2003		Case closed. (ac) (Entered: 07/29/2003)
08/04/2003	31	NOTICE OF MOTION by Terezina Ujkaj for an order for reconsideration purs. to FRCP 59(e) . No Return Date. Affirmation of Terezina Ujkaj attached. (sb) (Entered: 08/07/2003)
08/12/2003	32	RESPONSE by Lokal 32B-32J AFL-CI to plaintiffs [31-1] motion for an order for reconsideration purs. to FRCP 59(e). (tp) (Entered: 08/14/2003)
09/09/2003	33	Memo-Endorsement on letter addressed to Judge Harold Baer, Jr. from Harry Weinberg, dated 8/8/03. Re:denying [31-1] motion for an order for reconsideration purs. to FRCP 59(e). Counsel for dft requests that the petitioner's motion for reconsideration be denied. While I have compassion for the plaintiff's plight and worry about the absence of counsel, I have no choice on these papers and the grounds advanced by the dfts to deny the motion for reconsideration. ( signed by Judge Harold Baer Jr. ); (dle) (Entered: 09/10/2003)

09/29/2003	<u>34</u>	DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS by Terezina Ujkaj. (tp) (Entered: 10/28/2003)
09/29/2003	<u>35</u>	NOTICE OF APPEAL by Terezina Ujkaj from [33-1] order . Copies of notice of appeal mailed to Attorney(s) of Record: Harry M Weinberg. (I.F.P. DENIED 11/5/03) (\$105.00 APPEAL FILING FEE DUE). (dt) (Entered: 11/13/2003)
11/05/2003		MEMO-ENDORSEMENT on doc. #34; denied . ( signed by Judge Harold Baer Jr. ); (kw) (Entered: 11/06/2003)
11/13/2003		Notice of appeal and certified copy of docket to USCA: [35-1] appeal by Terezina Ujkaj ; Copy of notice of appeal sent to District Judge. (dt) (Entered: 11/13/2003)
11/17/2003	36	Notice that the record on appeal has been certified and transmitted to the U.S. Court of Appeals: [35-1] appeal by Terezina Ujkaj. (dt) (Entered: 11/17/2003)
11/17/2003		by Terezina Ujkaj, Indexed record on appeal files sent to the U.S.C.A. (dt) (Entered: 11/17/2003)
08/10/2004	37	TRUE COPY ORDER of USCA as to [35] Notice of Appeal filed by Terezina Ujkaj USCA Case Number 03-9211-cv. MACKECHNIE, Clerk USCA. Certified: 8/3/04.ORDERED that the judgment of the district court is VACATED and the case is remanded to the district court as indicated. APPELLANT'S motion for appointment of appellate counsel is DENIED as MOOT.(pr, ) (Entered: 08/10/2004)
08/10/2004		Transmission of USCA Mandate/Order to the District Judge re: [37] USCA Order., (pr, ) (Entered: 08/10/2004)
09/02/2004		PRO SE MEMORANDUM dated 9/2/04 re: CHANGE OF ADDRESS for Terezina Ujkaj. New Address: 97 Westchester Avenue, Pound Ridge, NY, 10576. (jco, ) (Entered: 09/17/2004)
09/27/2004	38	LETTER addressed to Harry M. Weinberg, Esq. from Chambers of Judge Harold Baer, Jr., dated 09/21/04 re: notifying counsel that there will be a pre-trial conference in this case at 2:20p.m. on October 7, 2004 in Room 2230. (djc, ) (Entered: 09/27/2004)
09/27/2004		Set Deadlines/Hearings: Pretrial Conference set for 10/7/2004 02:20 PM before Judge Harold Baer. (djc, ) (Entered: 09/27/2004)
10/08/2004	39	ORDER that defendant is provided ten (10) days to serve plaintiff with the motion to dismiss; that plaintiff is to respond within thirty (30) days to defendant's motion to dismiss; that defendant to reply within ten (10) days to plaintiff's response to the motion to dismiss; that defendants provide Chambers with a set of fully briefed motion papers on or before Monday 11/29/04 at 10:00 a.m.; that the Clerk is instructed to change the contact telephone number of Plaintiff to (914) 764-1345. So Ordered. (Signed by Judge Harold Baer on 10/7/04) (jco, ) (Entered: 10/12/2004)
10/18/2004	40	MOTION (FILED ON SERVICE DATE) to Dismiss pursuant to Rules 8(a)(2) and 12(b)(6) of the FRCP. Document filed by Lokal 32B-32J AFL-CIO. (kw, ) (Entered: 10/20/2004)
10/18/2004	41	MEMORANDUM OF LAW in Support re: [40] MOTION (FILED ON SERVICE DATE) to Dismiss. Document filed by Lokal 32B-32J AFL-CIO. (kw, ) (Entered: 10/20/2004)
10/21/2004	42	MOTION (FILED ON SERVICE DATE) to Dismiss pursuant to FRCP 12(b)(6) for failure to state a claim upon which relief can be granted. MOTION (FILED ON SERVICE DATE) for Summary Judgment pursuant to FRCP 56. Document filed by American Building Maintenance Co. (kw, ) (Entered: 10/25/2004)
10/21/2004	43	RULE 56.1 STATEMENT. Document filed by American Building Maintenance Co. (kw, ) (Entered: 10/25/2004)
10/21/2004	44	Statement to plaintiff pro se pursuant to local civil rule 56.2 explaining how to avoid dismissal of the amended complaint. Document filed by American Building Maintenance Co. (kw, ) (Entered: 10/25/2004)
11/12/2004	45	AFFIDAVIT in Opposition re: [42] MOTION (FILED ON SERVICE DATE) to Dismiss. MOTION (FILED ON SERVICE DATE) for Summary Judgment. MOTION (FILED ON SERVICE DATE) to Dismiss. MOTION (FILED ON SERVICE DATE) for Summary Judgment.. Document filed by Terezina Ujkaj. (sac, ) (Entered: 11/17/2004)
12/15/2004	46	ORDER that the Complaint against ABM and Local 32BJ be dismissed with prejudice pursuant to F.R.C.P. 8 because the plaintiff has repeatedly failed to satisfy even the most lenient and minimal pleadings requirements, see Taylor v. Vt. Dep't of Educ., 313 F. 3d 768, 776 (2d Cir. 2002) see also Hughes v. Rowe, 449 U.S. 5, 10 (1980) (Pro Se pleadings must be liberally construed in favor of that party, and are held to "less stringent standards that the formal parties drafted by lawyers")(internal quotation and citation omitted); and that the Complaint against ABM must also be dismissed with prejudice on principles of res judicata, because the Third Amended Complaint is a copy of the Second Amended Complaint that Chief Judge Michael Mukasey dismissed with prejudice against ABM, Terezina Ujkaj v. Am. Bldg. Maint. Co., & Local 32BJ SEIU, No. 02 Civ. 7065, at 4 (S.D.N.Y. Mar. 19, 2003); and that for a further ground the Complaint against Local 32BJ must be dismissed with prejudice, pursuant to F.R.C.P. 12(b)(6), because of plaintiff's failure to file an EEOC or New York State Division of Human Rights Commission Charge against Local 32BJ and, therefore, the Complaint fails to state a claim upon which relief any be granted, see 42 U.S.C. 2000e-5(e)(1), (f)(1); Holtz v. Rockerfeller & Co., Inc., 258 F. 3d 62, 82-83 (2d Cir. 2001)(holding "[a] plaintiff may bring an employment discrimination action under Title VII or the ADEA only after filing a timely charge with the EEOC or with a State or local agency with authority to grant or seek relief from such practice")(quoting 42 U.S.C. 2000e-5); that the Complaint must be dismissed against Local 32BJ with prejudice pursuant to F.R.C.P. 12(b) because of plaintiff's failure to assert any factual allegation against Local 32BJ concerning any form of discrimination, see De Jesus v. Sears, Roebuck & Co., Inc., 87 F. 3d 65, 70 (2d Cir. 1996)(holding "[a] complaint which consists of

		conclusory allegations unsupported by factual assertions fails even the liberal standard of Rule 12(b)(6)"); and, The Clerk of the Court is requested to close this case and remove it from my docket. So Ordered. (Signed by Judge Harold Baer on 12/14/04) (jco, ) (Entered: 12/20/2004)
12/23/2004	47	MOTION (FILED ON SERVICE DATE) for reconsideration pursuant to FRCP 59(e)' Document filed by Terezina Ujkaj. (dle, ) (Entered: 12/28/2004)
01/11/2005	48	ORDER denying [47] Motion for Reconsideration. The clerk of the court is requested to close this case and remove it from my docket. . (Signed by Judge Harold Baer on 1/11/05) (dle, ) (Entered: 01/13/2005)
01/11/2005		Transmission to Judgments and Orders Clerk. Transmitted re: [48] Order on Motion for Reconsideration, to the Judgments and Orders Clerk for preparation of Judgment. (dle, ) (Entered: 01/13/2005)
01/25/2005	49	MANDATE of USCA (Certified Copy) as to [35] Notice of Appeal filed by Terezina Ujkaj, USCA Case Number 03-9211-cv. Ordered, Adjudged and Decreed that the judgment of the District Court is VACATED and the case is remanded to the district court for determination of the legal sufficiency to appellant's complaint. Appellant's motion for appointment of appellate counsel is DENIED as moot. MACKECHNIE, Clerk USCA. Issued As Mandate: 12/23/04. (pr, ) (Entered: 01/27/2005)
01/27/2005		Transmission of USCA Mandate/Order to the District Judge re: [49] USCA Mandate,. (pr, ) (Entered: 01/27/2005)
02/04/2005	50	NOTICE OF INTERLOCUTORY APPEAL from [48] Order on Motion for Reconsideration. Document filed by Terezina Ujkaj. Filing fee \$ 255.00, receipt number E 533684. Copies of Notice of Interlocutory Appeal mailed to Attorney(s) of Record: Harry M Weinberg and Katchen Ann Locke. (tp, ) (Entered: 02/28/2005)
02/28/2005		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [50] Notice of Interlocutory Appeal. (tp, ) (Entered: 02/28/2005)
02/28/2005		Transmission of Notice of Appeal to the District Judge re: [50] Notice of Interlocutory Appeal. (tp, ) (Entered: 02/28/2005)
03/14/2005	51	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal for [50] Notice of Interlocutory Appeal, filed by Terezina Ujkaj, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (tp, ) (Entered: 03/16/2005)
03/14/2005		Appeal Record Sent to USCA (File). Indexed record on Appeal Files for [50] Notice of Interlocutory Appeal, filed by Terezina Ujkaj, were transmitted to the U.S. Court of Appeals. (tp, ) (Entered: 03/16/2005)
05/02/2005		Appcal Record Returned. Indexed record on Appeal Files for [35] Notice of Appeal filed by Terezina Ujkaj, USCA Case Number 03-9211, returned from the U.S. Court of Appeals. (tp, ) (Entered: 05/13/2005)